

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to a temporary restricted license

The Department of Transportation hereby amends Chapter 620, “OWI and Implied Consent,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 321J as amended by 2018 Iowa Acts, House File 2338, sections 2 to 9.

Purpose and Summary

This rule making updates Chapter 620 to align with existing legal authority and Department practice. The amendment conforms rule 761—620.3(321J) with 2018 Iowa Acts, House File 2338, which significantly altered the requirements for obtaining a temporary restricted license (TRL) and installation of an ignition interlock device (IID) for operating while intoxicated (OWI) revocations.

Specifically, the legislation extended the requirement to install an IID as a condition of a TRL to a subset of OWI offenders who had not previously been required to install an IID as a condition of a TRL, for example, applicants whose test results demonstrated a blood-alcohol content of .08 to .10. The legislation also removed the periods of ineligibility for most OWI offenses so that an applicant no longer must wait a specified period of time after committing an OWI offense before the applicant may apply for a TRL. Finally, the legislation removed the driving location restrictions for an applicant obtaining a TRL authorized under Iowa Code chapter 321J.

The amendment also reflects a new TRL application form number and conforms the rule to requirements in Iowa Code chapter 321J requiring an IID to be installed in all vehicles owned or operated by the applicant as a condition of the TRL.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4229C**.

The Department received written comments from a law firm. The comments concerned the 2018 legislative requirement that a person applying for a temporary restricted license under Iowa Code chapter 321J must install an IID in all vehicles owned or operated. The law firm stated that its clients who did not commit an OWI but who happen to co-own a vehicle with an OWI offender are experiencing the consequences of an OWI offender’s actions by having to drive a vehicle with an IID installed due to the requirement that an IID be installed in all vehicles owned or operated by the offender. The rule amendments comply with Iowa Code chapter 321J and 2018 legislation, and any changes to the administrative rules to address “vehicles owned or operated” must be preceded by a change in statutory requirements.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 20, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 17, 2019.

The following rule-making action is adopted:

Amend rule 761—620.3(321J) as follows:

761—620.3(321J) Issuance of temporary restricted license.

620.3(1) Eligibility and application.

a. The department may issue a temporary restricted license to a person who is eligible under and for the purposes listed in Iowa Code section 321J.4 (except subsection 8), 321J.9, 321J.12 or 321J.20 chapter 321J. The department shall not issue a temporary restricted license to a person ~~who has a current suspension or revocation for any other reason, or~~ who is otherwise ineligible.

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form 430400 430400 to driver and identification services at the address in 761—620.2(321J). The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to driver and identification services ~~or by submitting Form 432018 to driver and identification services with the appropriate box checked.~~

~~*c.* A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee's employment.~~

~~*d. c.*~~ *A* temporary restricted license issued for any purpose may include permission for the licensee to participate in the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. For purposes of this chapter, a sobriety and drug monitoring program means the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. If the licensee is required to participate in and comply with the sobriety and drug monitoring program as a condition of the license, the licensee shall notify the department of the jurisdiction to which the licensee is reporting in compliance with the program.

~~**620.3(2) Statements.** A person applying for a temporary restricted license shall submit all of the following statements that apply to the person's situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.~~

~~*a.* A statement from the person's employer unless the person is self-employed including, when applicable, verification that the person's use of a child care facility is essential to the person's continued employment.~~

- ~~b. A statement from the person.~~
- ~~c. A statement from the health care provider if the person or the person's dependent requires continuing health care.~~
- ~~d. A statement from the educational institution in which the person is enrolled.~~
- ~~e. A statement from the substance abuse treatment program in which the person is participating.~~
- ~~f. A copy of the court order for community service and a statement describing the assigned community service from the responsible supervisor.~~
- ~~g. A statement from the child care provider.~~

620.3(3) 620.3(2) *Additional requirements.* A person applying for a temporary restricted license shall also comply with all of the following requirements:

- a. Provide a description of all motor vehicles ~~to be~~ owned or operated under the temporary restricted license.
- b. Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles ~~to be~~ owned or operated under the temporary restricted license.
- c. Provide certification of installation of an approved ignition interlock device on every motor vehicle owned or operated.
- d. No change.

620.3(4) 620.3(3) *Issuance and restrictions.*

- a. and b. No change.

620.3(5) 620.3(4) *Denial.* A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of driver and identification services at the address given in 761—620.2(321J). Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

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